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Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

The rule of law at the national and international levels

Letter dated 9 October 2012 from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General

In accordance with instructions received from the Government of the Republic of Azerbaijan, I have the honour to inform you that the Republic of Armenia is taking steps to operate Khojaly Airport in, and illegally use the airspace over, the territory of the Republic of Azerbaijan currently occupied by the Armenian armed forces. Recently, the Republic of Armenia, through its subordinate separatist regime in the occupied territory of Azerbaijan, has established the so-called "Artsakh Air Company" and manifested its intention to operate flights, including military ones, into and from Khojaly Airport (referred to by the Armenian side as "Stepanakert Airport"). Such attempts clearly display a manifest disregard for international law, undermine the peace process and aggravate regional security concerns.

In its resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993), adopted in response to the illegal use of force against Azerbaijan and the occupation of its territories, the Security Council reaffirmed both the sovereignty and territorial integrity of Azerbaijan and the inadmissibility of the use of force for the acquisition of territory. It has further demanded the immediate, complete and unconditional withdrawal of the occupying forces from all the occupied territories of Azerbaijan. The General Assembly, in its resolution 62/243, and other international organizations have adopted a similar position.

The illegality of the separatist entity and its structures, set up by Armenia in the occupied territory of Azerbaijan, has been repeatedly stated at the international level. This entity is entirely unrecognized as such. It is under Armenia's direction and control.

The Government of the Republic of Azerbaijan wishes to inform the States Members of the United Nations that the so-called "Stepanakert Airport" is not an

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approved aerodrome under the legislation of Azerbaijan, nor is it a designated Customs airport in accordance with the Convention on International Civil Aviation. Consequently, all flights operated from and into that airport are illegal and violate the foundational principles and objectives of the International Civil Aviation Organization, constituting a flagrant violation of the Convention on International Civil Aviation, to which both Armenia and Azerbaijan are parties, in particular its articles 1, 2, 5, 6, 10-16, 24 and 68, which recognize that every State has complete and exclusive sovereignty over the airspace above its territory and spell out the fundamental principle inherent in such sovereignty, according to which no international air services of any kind for the purpose of taking on or discharging passengers, cargo or mail may be operated over or into the territory of a contracting State, except with special permission or other authorization by that State. Since the Republic of Azerbaijan, acting in the exercise of its sovereign right, has closed the airspace over its territory currently occupied by the Armenian armed forces for any aviation operations, no flight into or from the so-called "Stepanakert Airport" is authorized.

Having regard to the above-mentioned resolutions of the Security Council and the General Assembly, by which all States are called upon to respect and support the sovereignty and territorial integrity of the Republic of Azerbaijan within its internationally recognized borders, the Government of the Republic of Azerbaijan requests that all countries take note of the illegal nature of the attempt by Armenia and its subordinate separatist regime in the occupied territory of Azerbaijan to operate the so-called "Stepanakert Airport" referred to above and, in compliance with the above-mentioned United Nations resolutions and the relevant provisions of the Convention on International Civil Aviation, take all necessary measures so that their designated carriers and all other airlines registered and licensed by them refrain from operating any air services, whether scheduled or non-scheduled, to the so-called "Stepanakert Airport" and from having any dealings whatsoever with the so-called "Artsakh Air Company".

It is clear that the unauthorized overflight of a State's territory by aircraft belonging to, or under the control of, the Government of another State directly infringes the principle of respect for territorial sovereignty and entails responsibility under international law. In this regard, the Republic of Azerbaijan reserves its right to take all measures necessary, in accordance with international law, to prevent the illegal use of its airspace, as well as to take any other appropriate legal actions against any foreign entities or its agents that try to enter into contract with and/or perform operations in relation to the functioning of the so-called "Stepanakert Airport".

I should be grateful if you would have the present letter circulated as a document of the General Assembly, under agenda items 34, 39 and 83, and of the Security Council.

(*Signed*) Agshin **Mehdiyev**
Ambassador
Permanent Representative